



W.P.(MD)Nos.14162, 15217 and 17187 of 2024

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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Reserved on : 09.07.2024 & 26.07.2024

Pronounced on : 01.08.2024

CORAM

THE HONOURABLE Ms.JUSTICE R.N.MANJULA

W.P.(MD)Nos.14162, 15217 and 17187 of 2024
and WMP(MD)No.12414, 13320, 13321 and 14823 of 2024

W.P.(MD)No.14162 of 2024:

N.Senthilmurugan

... Petitioner

Vs.

- 1.The Secretary,
Revenue and Disaster Management,
Secretariat,
Fort St.George,
Chennai.
- 2.The Additional Chief Secretary Cum
Commissioner of Revenue Administration,
Chepauk, Chennai.
- 3.The District Collector,
Theni,
Theni District.
- 4.The Special Tahsildar (SSS),
Andipatty Taluk,
Theni District.

... Respondents

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W.P.(MD)Nos.14162, 15217 and 17187 of 2024

PRAYER: Writ Petition filed under Article 226 of the Constitution of India for issuance of Writ of Certiorarified Mandamus, calling for the records relating to the impugned letter issued by the third respondent vide his proceedings in Roc.No.A1/10700/2024 dated 29.04.2024 and the consequential proceedings issued by him in Roc.No.A1/10700/2024 dated 30.04.2024, quash the same in light of G.O.(Ms)No.144, Personnel and Administrative Reforms (N) Department dated 06.06.2007 and G.O.(Ms).No.111, Human Resource Management (N) Department dated 11.10.2021 and further direct the respondents to allow the petitioner to retire peacefully with all the attendant and monetary benefits within a time frame fixed by this Court.

For Petitioner : Mr.T.Cibichakraborty

For Respondents : Mr.J.Ashok
Additional Government Pleader

W.P.(MD)No.15217 of 2024:

P.Murugesan

... Petitioner

Vs.

- 1.The Secretary,
Revenue and Disaster Management,
Secretariat,
Fort St.George,
Chennai.
- 2.The Additional Chief Secretary Cum
Commissioner of Revenue Administration,
Chepauk, Chennai.

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3.The District Collector,
Theni,
Theni District.

4.The Special Tahsildar (SSS),
Theni Taluk,
Theni District.

... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India for issuance of Writ of Certiorarified Mandamus, calling for the records relating to the impugned letter issued by the third respondent vide his proceedings in Roc.No.A1/1777613/2024 dated 29.03.2024 and the consequential proceedings issued by him in Roc.No.A1/1777613/2024 dated 30.03.2024, quash the same in light of G.O.(Ms)No.144, Personnel and Administrative Reforms (N) Department dated 06.06.2007 and G.O.(Ms).No.111, Human Resource Management (N) Department dated 11.10.2021 and further direct the respondents to allow the petitioner to retire peacefully with all the attendant and monetary benefits within a time frame fixed by this Court.

For Petitioner : Mr.T.Cibichakraborty

For Respondents : Mr.J.Ashok
Additional Government Pleader

W.P.(MD)No.17187 of 2024:

S.Dhanalakshmi

... Petitioner

Vs.

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- 1.The Secretary,
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- 2.The Additional Chief Secretary Cum
Commissioner of Revenue Administration,
Chepauk, Chennai.
- 3.The District Collector,
Theni,
Theni District.
- 4.The District Collector,
Ramanathapuram,
Ramanathapuram District.

... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India for issuance of Writ of Certiorari, calling for the records relating to the impugned charge memo issued by the second respondent vide his proceedings in Ku.Ku.No.Pani-2(4)/6941363/2024 dated 21.06.2024, quash the same.

For Petitioner : Mr.T.Cibichakraborty

For Respondents : Mr.J.Ashok
Additional Government Pleader

COMMON ORDER

Since all the three petitioners are said to be the delinquents of the same occurrence, these petitions are taken up together and a common order is passed.

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2. Heard Mr.T.Cibichakraborty, learned counsel for the petitioners and Mr.J.Ashok, learned Additional Government Pleader for the respondents.

3. The respective action against the petitioners have been initiated pursuant to the surprise inspection made by the Deputy Superintendent of Police, Vigilance and Anti Corruption, Theni and Madurai Inspection Team at the office of the District Manager, TASMAC, Theni on 10.11.2023. During inspection, an unaccounted amount of Rs.27,410/- (Rupees Twenty Seven Thousand Four Hundred and Ten only) had been recovered from the said place, for which, no one has claimed ownership. So, presuming that the said amount has been obtained by the petitioners as bribe, action has been initiated against them.

4. So far as the petitioner in W.P.(MD)No.14162 of 2024 (N.Senthil Murugan) is concerned, while he was working as Excise Supervisory Officer at TASMAC godown, Theni, he was kept under suspension on 29.04.2024, at the verge of his retirement. He has attained

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the age of superannuation on 30.04.2024. In view of the above suspension, the petitioner was not allowed to retire and an order to that effect was passed on 30.04.2024. Challenging the same, the petitioner has filed this petition.

5. The petitioner in W.P.(MD)No.15217 of 2024 (P.Murugesan) was working as Depot Manager on deputation at the TASMAG Goddown, Theni at the relevant point of time, he was also placed under suspension at the verge of his retirement on 29.03.2024. The petitioner has attained the age of superannuation on 30.03.2024, but he was not allowed to retire and the proceedings to that effect has been given to him on 30.03.2024. Hence, he has filed this present Writ Petition challenging the impugned orders issued against him.

6. So far as the petitioner in W.P.(MD)No.17187 of 2024 (S.Dhanalakshmi) is concerned, while she was working as the District Manager of TASMAG Godown, Theni, a surprise inspection was conducted on 10.11.2023 and she was issued with the charge memo on 21.06.2024, based upon the recommendation made by the DSP, Vigilance



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and Anticorruption. The petitioner has challenged the same by way of filing the present Writ Petition.

7. Mr.T.Cibichakraborty, learned counsel for the petitioners submitted that the petitioners were placed under suspension at the verge of their retirement which is contrary to the Government guidelines issued in G.O.(Ms)No.111 Human Resources Management (N) Department dated 11.10.2021. He further submitted that no FIR has been registered against the petitioners and the money was also not recovered from them directly. Despite no criminal action has been initiated against the petitioners, it is wrong on the part of the Vigilance and Anti Corruption Department to make recommendation to initiate disciplinary action against the petitioners. Even though the guidelines have stated that the suspension at the verge of retirement has to be avoided, even when the allegations are serious in nature, action should have been taken well in advance in order to avoid issuance of suspension order on the date of their retirement.



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8. Mr.J.Ashok, learned Government Advocate for the respondents submitted that the allegations are serious in nature and in such kind of grave allegations, the petitioners cannot expect to go scot free without any action against them and that the Government instructions to avoid suspension on the verge of retirement will not be applicable to the cases involving corruption.

9. On perusal of the records and on hearing the arguments on both sides, it comes to light that during the surprise check, the unaccounted amount has been recovered at some part of the computer room and not from the seat of the respective petitioner. Though the matter is serious in nature, it is very difficult to fix liability on the petitioners alone, as there are other staffs working in the Government. In fact, only due to want of *prima facie* materials to register a case, the Unit of Vigilance and Anti Corruption thought it fit not to register an FIR. Though the Vigilance Manual would empower the appropriate authority of the Vigilance and Anti Corruption to make recommendation for departmental action in the absence of concrete materials to lay a charge sheet, the said discretion cannot be made applicable in a situation where even FIR has not been



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registered and for the surprise check that was made as early as in the year 10.11.2023, action has been initiated only at the verge of retirement of the petitioners, namely, N.Senthilmurugan and P.Murugesan. The guidelines issued by the Government in G.O.(Ms)No.111 dated 11.10.2021 would stipulate that if any irregularities or offences committed by the Government servants come to the notice of the authority concerned within a period of three months prior to the date of the retirement, the disciplinary authorities shall process the case on a war footing manner and take a decision either to permit the Government servants to retire from service or to continue the disciplinary proceedings by placing them under suspension. Even though the allegations made against the petitioners are grave in nature, no action has been taken from the date on which the disciplinary authority took note of the surprise check.

10. However, the learned counsel for the petitioner submitted that the action could have been initiated only after getting the report from the Deputy Superintendent of Police of Vigilance and Anti Corruption.



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11. But the fact remains that no FIR has been registered by the Deputy Superintendent of Police of Vigilance and Anticorruption and hence, it is not necessary for the respondents to get a report from the Department of Vigilance and Anticorruption. In the absence of any pending criminal case, no exemption can be given to the implementation of guidelines issued by the Government in G.O.Ms.No.111 dated 11.10.2021.

12. In view of the improper nature in which the impugned actions have been initiated against the petitioners, I feel that the impugned orders are liable to be set aside.

13. In the result,

(i) **W.P.(MD)No.14162 of 2024** is **allowed** and the impugned proceedings in Roc.No.A1/10700/2024 dated 29.04.2024 and the consequential proceedings in Roc.No.A1/10700/2024 dated 30.04.2024 are set aside. The respondents are directed to allow the petitioner to retire and disburse the terminal benefits as expeditiously as possible;



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(ii) **W.P.(MD)No.15217 of 2024** is **allowed** and the impugned proceedings in Roc.No.A1/1777613/2024 dated 29.03.2024 and the consequential proceedings in Roc.No.A1/1777613/2024 dated 30.03.2024 are set aside. The respondents are directed to allow the petitioner to retire and disburse the terminal benefits as expeditiously as possible; and

(iii) **W.P.(MD)No.17187 of 2024** is **allowed** and the impugned proceedings in Ku.Ku.No.Pani-2(4)/6941363/2024 dated 21.06.2024 is set aside.

(iv) No costs. Consequently, connected miscellaneous petitions are closed.

01.08.2024

Index : Yes / No
Internet : Yes/No
NCC : Yes / No
Nsr



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Ramanathapuram,
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R.N.MANJULA,J.

Nsr

W.P.(MD)Nos.14162, 15217 and 17187 of 2024
and
WMP(MD)No.23630 of 2023

01.08.2024